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STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS

Report of the Secretary-General

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I. INTRODUCTION

1. On 9 December 1994, the General Assembly adopted resolution 49/48 entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts". In paragraph 6 of the resolution, the Assembly requested the Secretary-General to submit to it at its fifty-first session a report on the status of the additional Protocols based on information received from Member States.

2. Pursuant to that request, the Secretary-General, by a note dated 22 December 1994 and a reminder dated 20 December 1995, invited Member States to transmit to him, by 30 June 1996 and for inclusion in the report, the information requested in paragraph 6 of the resolution.

3. As at 9 July 1996, replies had been received from the following States: Australia, Austria, Chile, Colombia, Cyprus, Italy, Luxembourg, Slovakia and Ukraine. They are reproduced in the present report. Additional replies will be reproduced as addenda to it.

4. The list of all States that are parties to the Protocols 1/ Additional to the Geneva Conventions of 1949 2/ as at 18 June 1996, as communicated by the competent authorities of the Government of Switzerland, depositary of the Protocols, appears in the annex to the present report.

1/ United Nations, Treaty Series, vol. 1125, Nos. 17512 and 17513.

2/ Ibid., vol. 75, Nos. 970-973.

II. INFORMATION RECEIVED FROM MEMBER STATES

AUSTRALIA

[Original: English]

[1 July 1996]

1. Protocol I was signed for Australia on 7 December 1978. Australia's instrument of ratification with declarations regarding articles 5, 44 and 51 to 58 was deposited on 21 June 1991. The Protocol thus entered into force for Australia on 21 December 1991. A declaration was deposited for Australia on 23 September 1992, accepting the competence of the International Fact-finding Commission pursuant to article 90.2 (a).

2. Protocol II was also signed for Australia on 7 December 1978. The instrument of ratification was deposited on 21 June 1991 and entry into force occurred on 21 December 1991.

3. In December 1994, Australia hosted the Second Regional Conference on International Humanitarian Law, convened by the Australian Red Cross in cooperation with the Department of Foreign Affairs and Trade and the Australian Defence Studies Centre. The Conference was designed to reinforce the implementation of and respect for international humanitarian law and to examine ways of bringing regional perspectives to bear on the debates that followed in 1995, in particular at the International Conference of the Red Cross and Red Crescent Societies.

4. The genesis of the Conference reflects its focus on the modernization and dissemination of international humanitarian law. In 1993, Australia was one of over 160 countries that took part in the International Conference for the Protection of War Victims, convened in Geneva by the Government of Switzerland. Debate at the Conference encouraged the Government of Australia to join with other countries of the region to look for ways of improving the level of attention being given to the protection of war victims.

5. The Conference was given additional immediacy by its timing in the lead up to the 1995 Intergovernmental Expert Meeting on the Protection of War Victims. The review of the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and the 26th International Conference of the Red Cross and Red Crescent Societies.

6. The Conference was enriched by a diverse group of participants, from a wide variety of countries as well as from a wide range of individual backgrounds, including government, military, academic and non-governmental organization participants. It provided an opportunity to discuss the most pressing contemporary issues relating to international humanitarian law, including the protection of women and of children in armed conflict, the provision of emergency relief, peace-keeping, protection of cultural property and developments in international criminal law.

7. The Second Regional Conference represented an important step towards the modernization of international humanitarian law, and in encouraging regional adherence to existing instruments including the Protocols. The proceedings are published in Shelters from the Storm: Developments in International Humanitarian Law, edited by William Maley and published by the Australian Defence Studies Centre, Canberra (1995).

8. Australia's statement to the Sixth Committee of the General Assembly at its fiftieth session under agenda item 140, "United Nations Decade of International Law", referred in more detail to the Second Regional Conference on International Humanitarian Law, hosted by Australia.

AUSTRIA

[Original: English]

[9 July 1996]

1. Austria ratified the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (Protocols I and II) on 13 August 1982. Protocols I and II entered into force on 13 February 1983. The following reservations were made at the time of ratification (translation):

(a) Reservation with regard to article 57, paragraph 2, of Protocol I

"Article 57, paragraph 2, of Protocol I will be applied on the understanding that, with respect to any decision taken by a military commander, the information actually available at the time of the decision is determinative."

(b) Reservation with regard to article 58 of Protocol I

"In view of the fact that Article 58 of Protocol I contains the expression 'to the maximum extent feasible', sub-paragraphs (a) and (b) will be applied subject to the requirements of national defence."

(c) Reservation with regard to article 75 of Protocol I

"Article 75 of Protocol I will be applied insofar as

(a) Paragraph 4 (e) is not incompatible with legislation providing that any defendant, who causes a disturbance at the trial or whose presence is likely to impede the questioning of another defendant or the hearing of a witness or expert witness, may be removed from the courtroom;

(b) Paragraph 4 (h) is not incompatible with legal provisions authorizing the reopening of proceedings that have resulted in a final declaration of conviction or acquittal."

(d) Reservation with regard to Articles 85 and 86 of Protocol I

"For the purposes of judging any decision taken by a military commander, articles 85 and 86 of Protocol I will be applied on the understanding that military imperatives, the reasonable possibility of recognizing them and the information actually available at the time that decision was taken, are determinative."

(e) Reservation with regard to Article 6 of Protocol II

"Article 6, paragraph 2 (e), of Protocol II will be applied insofar as it is not incompatible with legislation providing that any defendant, who causes a disturbance at the trial or whose presence is likely to impede the questioning of another defendant or the hearing of a witness or expert witness, may be removed from the courtroom."

2. In addition, at the time of ratification of Protocols I and II Austria made also the following declaration provided for under article 90 of Protocol I:

"In compliance with article 90 of Protocol I the Republic of Austria declares that she recognizes ipso facto and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the commission."

CHILE

[Original: Spanish]

[25 January 1996]

The Government of Chile ratified the Protocols Additional to the Geneva Conventions of 1949 on 24 April 1991. In so doing, it made the declaration referred to in article 90 of Protocol I, whereby it recognizes the competence of the International Fact-finding Commission.

COLOMBIA

[Original: Spanish]

[12 January 1995]

1. The Government of Colombia transmitted the text of the Second Protocol Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (Protocol II) to the Congress of the Republic for adoption.

2. The National Congress adopted Protocol II and, pursuant to article 241.10 of the National Constitution, the text of the Protocol and the act authorizing its adoption are under review by the Constitutional Court, which will take a decision on its constitutionality.

CYPRUS

[Original: English]

[8 November 1995]

Cyprus has ratified the Protocol Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (Protocol II).

ITALY

[Original: English]

[30 April 1996]

1. Following the enactment of Law No. 762 of 11 December 1985, Italy ratified Additional Protocols I and II of 8 June 1977, relating to the protection of victims of international armed conflicts and to the protection of victims of non-international armed conflicts, respectively.

2. Upon deposit of the instruments of ratification of the said Protocols, on 27 February 1986, Italy made the declaration provided for under article 90 of Protocol I, whereby it accepts the competence of the International Fact-finding Commission.

LUXEMBOURG

[Original: French]

[6 March 1995]

The Grand Duchy of Luxembourg has taken all the actions called for in General Assembly resolution 49/48 entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

SLOVAKIA

[Original: English]

[27 June 1996]

1. Slovakia has been a party to the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts since 1 January 1993 on the basis of the notification of succession on 2 April 1993.

2. Furthermore, Slovakia in 1995 made the declaration provided for under article 90 of Protocol I and deposited it with the Government of the Swiss Confederation.

UKRAINE

[Original: Russian]

[21 March 1995]

1. Recognizing the enduring significance of the rules of humanitarian law relating to the victims of armed conflicts, Ukraine has consistently advocated, and continues to advocate, the need for constant respect for those rules, which have been elaborated through a process of international cooperation in this sphere.

2. It is from this standpoint that Ukraine approaches the solution of specific problems of a humanitarian character. For instance, representatives of Ukraine participated directly in the preparation of such instruments of international law as the Geneva Conventions of 1949 and the Protocols Additional thereto of 1977. Ukraine has ratified these important international instruments and accordingly complies with their provisions in practice. It should be noted that, in ratifying the Additional Protocols, Ukraine declared that it recognized the competence of the International Fact-finding Commission established pursuant to article 90 of Additional Protocol I.

3. Representatives of Ukraine also participated in the work of the International Conference for the Protection of War Victims, held in Geneva from 30 August to 1 September 1993. They actively supported the concluding declaration adopted at the Conference regarding the necessity of preventive measures and of ensuring the strict observance of the rules of international humanitarian law in the armed conflicts that have been taking place in recent times in a number of regions of the world. In this connection, reference might also be made to the fact that the delegation of Ukraine was one of the sponsors of General Assembly resolution 49/48 of 9 December 1994.

4. It goes without saying that Ukraine will in the future continue to support the efforts of the international community aimed at ensuring respect for the rules of international humanitarian law during armed conflicts.

ANNEX

List of States parties to the Protocols Additional to the Geneva Conventions of 1949 as at 18 June 1996 a/

State	Date of ratification, accession, or succession
Albania	16 July 1993
Algeria b/, c/	16 August 1989
Angola b/ (Protocol I only)	20 September 1984
Antigua and Barbuda	6 October 1986
Argentina b/	26 November 1986
Armenia	7 June 1993
Australia b/, c/	21 June 1991
Austria b/, c/	13 August 1982
Bahamas	10 April 1980
Bahrain	30 October 1986
Bangladesh	8 September 1980
Barbados	19 February 1990
Belarus c/	23 October 1989
Belgium b/, c/	20 May 1986
Belize	29 June 1984
Benin	28 May 1986
Bolivia c/	8 December 1983
Bosnia and Herzegovina c/	31 December 1992
Botswana	23 May 1979
Brazil c/	5 May 1992
Brunei Darussalam	14 October 1991
Bulgaria c/	26 September 1989
Burkina Faso	20 October 1987
Burundi	10 June 1993
Cameroon	16 March 1984
Canada b/, c/	20 November 1990
Cape Verde (Protocol I) c/	16 March 1995
(Protocol II)	16 March 1995
Central African Republic	17 July 1984
Chile c/	24 April 1991
China b/	14 September 1983
Colombia (Protocol I)	1 September 1993
(Protocol II)	14 August 1995
Comoros	21 November 1985
Congo	10 November 1983
Costa Rica	15 December 1983
Côte d'Ivoire	20 September 1989
Croatia c/	11 May 1992
Cuba (Protocol I only)	25 November 1982
Cyprus (Protocol I)	1 June 1979
(Protocol II)	18 March 1996
Czech Republic	5 February 1993

State	Date of ratification, accession, or succession
Democratic People's Republic of Korea (Protocol I only)	9 March 1988
Denmark b/, c/	17 June 1982
Djibouti	8 April 1991
Dominica	25 April 1996
Dominican Republic	26 May 1994
Ecuador	10 April 1979
Egypt b/	9 October 1992
El Salvador	23 November 1978
Equatorial Guinea	24 July 1986
Estonia	18 January 1993
Ethiopia	8 April 1994
Finland b/, c/	7 August 1980
France b/ (Protocol II only)	24 February 1984
Gabon	8 April 1980
Gambia	12 January 1989
Georgia	14 September 1993
Germany b/, c/	14 February 1991
Ghana	28 February 1978
Greece (Protocol I)	31 March 1989
(Protocol II)	15 February 1993
Guatemala	19 October 1987
Guinea	11 July 1984
Guinea-Bissau	21 October 1986
Guyana	18 January 1988
Holy See b/	21 November 1985
Honduras	16 February 1995
Hungary c/	12 April 1989
Iceland b/, c/	10 April 1987
Italy b/, c/	27 February 1986
Jamaica	29 July 1986
Jordan	1 May 1979
Kazakstan	5 May 1992
Kyrgyzstan	18 September 1992
Kuwait	17 January 1985
Lao People's Democratic Republic	18 November 1980
Latvia	24 December 1991
Lesotho	20 May 1994
Liberia	30 June 1988
Libyan Arab Jamahiriya	7 June 1978
Liechtenstein b/, c/	10 August 1989
Luxembourg c/	29 August 1989
Madagascar c/	8 May 1992
Malawi	7 October 1991
Maldives	3 September 1991
Mali	8 February 1989
Malta b/, c/	17 April 1989
Mauritania	14 March 1980
Mauritius	22 March 1982

State	Date of ratification, accession, or succession
Mexico (Protocol I only)	10 March 1983
Micronesia (Federated States of)	19 September 1995
Mongolia (Protocol I) b/, c/	6 December 1995
(Protocol II)	6 December 1995
Mozambique (Protocol I only)	14 March 1983
Namibia	17 June 1994
Netherlands b/, c/	26 June 1987
New Zealand b/, c/	8 February 1988
Niger	8 June 1979
Nigeria	10 October 1988
Norway c/	14 December 1981
Oman b/	29 March 1984
Panama	18 September 1995
Paraguay	30 November 1990
Peru	14 July 1989
Philippines (Protocol II only)	11 December 1986
Poland c/	23 October 1991
Portugal	27 May 1992
Qatar b/, c/ (Protocol I only)	5 April 1988
Republic of Korea b/	15 January 1982
Republic of Moldova	24 May 1993
Romania	21 June 1990
Russian Federation b/, c/	29 September 1989
Rwanda	19 November 1984
Saint Kitts and Nevis	14 February 1986
Saint Lucia	7 October 1982
Saint Vincent and the Grenadines	8 April 1983
Samoa	23 August 1984
San Marino	5 April 1994
Saudi Arabia b/ (Protocol I only)	21 August 1987
Senegal	7 May 1985
Seychelles c/	8 November 1984
Sierra Leone	21 October 1986
Slovakia	2 April 1993
Slovenia c/	26 March 1992
Solomon Islands	19 September 1988
South Africa	21 November 1995
Spain b/, c/	21 April 1989
Suriname	16 December 1985
Swaziland	2 November 1995
Sweden b/, c/	31 August 1979
Switzerland b/, c/	17 February 1982
Syrian Arab Republic b/ (Protocol I only)	14 November 1983
Tajikistan	13 January 1993
The former Yugoslav Republic of Macedonia c/	1 September 1993
Togo c/	21 June 1984
Tunisia	9 August 1979
Turkmenistan	10 April 1992
Uganda	13 March 1991

State	Date of ratification, accession, or succession
Ukraine c/	25 January 1990
United Arab Emirates b/, c/	9 March 1983
United Republic of Tanzania	15 February 1983
Uruguay c/	13 December 1985
Uzbekistan	8 October 1993
Vanuatu	28 February 1985
Viet Nam (Protocol I only)	19 October 1981
Yemen	17 April 1990
Yugoslavia b/	11 June 1979
Zaire (Protocol I only)	3 June 1982
Zambia	4 May 1995
Zimbabwe	19 October 1992

Notes

a/ As communicated by the competent authorities of the Government of Switzerland, depositary of the Protocols. By a note dated 15 August 1990, the Permanent Observer Mission of Switzerland informed the Secretary-General as follows:

> "On 21 June 1989, the Federal Department for Foreign Affairs received a communication of 14 June 1989 from the Permanent Observer of Palestine to the United Nations Office at Geneva concerning Palestine's participation in the four Geneva Conventions of 12 August 1949 and their two additional Protocols of 8 June 1977. On 18 September 1989, the Federal Department for Foreign Affairs sent to the States parties to the Conventions an information note of 13 September 1989 regarding this communication, accompanied by the text of the latter. In the information note, the Swiss Federal Council, depositary of the Conventions, brings to the attention of the States parties that it is not in a position to settle the question whether the communication should be considered an instrument of accession within the meaning of the relevant provisions of the Conventions and their Additional Protocols."

b/ Ratification, accession or succession accompanied by a reservation and/or a declaration.

c/ Party which has made the declaration provided for under article 90 of Protocol I.